

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6061

BILL NUMBER: SB 3

NOTE PREPARED: Jan 23, 2008

BILL AMENDED: Jan 22, 2008

SUBJECT: Dispensing of Drugs by Pharmacists.

FIRST AUTHOR: Sen. Drozda

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that a pharmacist may not be required to dispense or sell a drug or medical device if the drug or medical device would be used to: (1) cause an abortion; or (2) cause the death of a person by means of assisted suicide, euthanasia, or mercy killing.

It specifies certain actions that a pharmacist must take when refusing to dispense a drug or medical device. The bill states that a pharmacy must have a policy in place to dispense or sell a drug or medical device that a pharmacist refuses to dispense or sell.

The bill also specifies that a pharmacist's refusal to dispense or sell a drug or medical device may not be the basis for: (1) a claim of damages against the pharmacist or pharmacy; and (2) disciplinary action against the pharmacist. It provides that an employer who knowingly or intentionally takes disciplinary, retaliatory, or discriminatory action against a pharmacist who refuses to dispense or sell a drug or medical device commits pharmacy discrimination, a Class A misdemeanor. It makes a second or subsequent offense a Class D felony.

The bill authorizes the Indiana Board of Pharmacy to assess additional fines against the employer.

Effective Date: July 1, 2008.

Summary of NET State Impact: The bill may increase fine revenue received and/or costs of incarceration based on the number of offenders convicted of pharmacy discrimination, a Class A misdemeanor. Local costs for incarceration could increase if offenders are sentenced to jail terms for a first offense. However, state prison costs could increase if offenders are sentenced for second or subsequent offenses.

Fine revenues for both felonies and misdemeanors are deposited in Common School Fund, and the additional revenue from fines imposed by the Indiana Board of Pharmacy will be deposited in the state General Fund.

Explanation of State Expenditures: *Second or Subsequent Offense Penalty:* A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Additional Fines Imposed:* Under the bill, the Indiana Board of Pharmacy may impose an additional fine of between \$5,000 and \$10,000 on offenders convicted of pharmacy discrimination. Administrative fine revenue is deposited in the state General Fund unless otherwise specified in the statute.

First Offense Penalty: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

Second or Subsequent Offense Penalty: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

Court Fees: For both first and subsequent offenses, if the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *First Offense Penalty:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Second or Subsequent Offense Penalty: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Court Fees:* For both first and subsequent offenses, if additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction, Indiana Board of Pharmacy.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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